

## REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Action dated April 24, 2009. By this Response, claims 2 and 9 are cancelled, and claims 1, 3-5, 7, 8, 10, and 16 are amended. Claims 1, 3-8, and 10-20 are pending in this application. The Examiner has objected to the specification and drawings for informalities. Claims 1-20 are rejected under 35 U.S.C. §112, second paragraph. Claims 1-20 are also rejected under 35 U.S.C. §102(b) as being anticipated by Pawliszyn, U.S. Patent No. 5,496,741 ("*Pawliszyn*"). Claims 1-11, 13, and 15-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over *JP-101243*. Applicant believes the pending claims are allowable over the art of record and respectfully requests reconsideration and allowance of all claims.

**I. The specification has been amended to add headings.**

The specification has been amended to add headings for the sections of the application.

**II. The specification and claims have been amended to revise vein to vane.**

The Examiner objected to the use of vein or veins instead of vane or vanes. By this Response, Applicant has amended the specification, abstract, and claims to revise vein or veins to vane or vanes.

**III. Threaded connector 11 is disclosed in the figures.**

The Examiner objected to the disclosure because the Examiner set forth that the threaded connector 11 was not found in the figures. Applicants respectfully point out that threaded connector 11 is found on Figure 2.

**IV. The figures have been amended to include reference 19 to the transfer line.**

The Examiner objected to the disclosure because the reference to transfer line 19 was not found in the figures. By this Response, Figure 6 has been amended to point out the transfer line 19.

**V. Elongate cylinder portion is disclosed in the specification and figures.**

The Examiner objected to the specification because the designation of the elongate cylinder portion of claims 1 and 9 is not clear. Applicant respectfully sets forth that the elongate cylinder portion is disclosed in paragraphs 0016, 0024, and 0027 as well as in Figure 1 as reference 2. Please note that the shading in the figures merely depicts the coating.

**VI. The spiral vein is disclosed in the figures.**

The Examiner objected to the figures because the spiral vein is not clearly depicted. Applicant respectfully sets forth that the spiral vein is clearly shown in Figures 1-6 as reference 3. Please note that the shading in the figures merely depicts the coating.

**VII. Cylinder 2 is not actually shaped as the arrow at the bottom.**

The Examiner is objecting with an inquiry as to whether the arrow shape at the bottom of cylinder 2 is actually shaped as such. Cylinder 2 is not actually shaped as the arrow. The arrow is merely for illustrative purposes.

**VIII. The drawings and specification have been amended for heating device.**

The Examiner is unclear as to what is being designated a heating device. By this Response, Applicant has amended Figure 3 to include the reference "30." Applicant has also amended the specification at paragraph [0058] to include the reference "30."

**IX. The informalities of the claims have been corrected.**

The Examiner rejected claims 1-20 as being indefinite. By this Response, claim 1 has been amended to delete "its" and include the recitation "a longitudinal axis of the elongate cylinder portion." Claim 1 has also been amended to revise "veins" to "vanes."

Claim 4 has also been amended to correct the antecedent basis by amending the limitations to "further comprising an extracting element, wherein the extracting element is connected directly to a means of rotation, and/or the probe is arranged to be rotated in the sample." Claim 5 has also been amended to amend "impellar" to "impeller." In claim 7, the recitations have been amended to recite "wherein the one or more vanes are." In claim 16, the recitations have been

amended to recite "wherein the one or more vanes are." Claim 9 has been cancelled by this Response.

**X. Claims 1, 3-8, and 10-20 are not anticipated by *Pawliszyn*.**

The Examiner rejected claims 1-20 as being anticipated by *Pawliszyn*. Applicant submits that claims 1, 3-8, and 10-20 are not anticipated by *Pawliszyn* because *Pawliszyn* fails to disclose each and every limitation of these claims. Please note that claims 2 and 9 are cancelled by this Response.

Claim 1 is an independent claim upon which claims 3-8 and 10-20 depend. Claim 1 as amended recites "which probe includes an elongate cylinder portion which is arranged to rotate about a longitudinal axis of the elongate cylinder portion, and having thereon one or more vanes extending away from the cylinder portion, wherein the one or more vanes are coated with a solid phase as a means for extracting materials, and wherein the elongate cylinder portion is substantially hollow along its length to allow gas to flow therethrough." Nothing in *Pawliszyn* discloses such recitations of claim 1 as amended.

In view of the recitations in independent claim 1 that are not disclosed by *Pawliszyn*, the Applicant respectfully requests that the Examiner withdraw the § 102(b) rejections and allow independent claim 1. Applicant further requests that the Examiner also withdraw the § 102(b) rejections of dependent claims 3-8 and 10-20, since it is submitted that independent claim 1 is allowable. Dependent claims 3-8 and 10-20 must *a fortiori* also be allowable, since they carry with them all the limitations of the independent claim 1 to which they ultimately refer.

**XI. Claims 1, 3-8, 10, 11, 13, and 15-20 are patentable over *JP-101243*.**

Applicant respectfully traverses the Examiner's rejection of claims 1, 3-8, 10, 11, 13, and 15-20 under §103 as being unpatentable over *JP-101243*. Applicant submits that the Examiner has not made a *prima facie* case of obviousness in rejecting such claims. Please note that claims 2 and 9 are cancelled by this Response.

Claim 1 is an independent claim upon which claims 3-8, 10, 11, 13, and 15-20 depend. Claim 1 as amended recites "which probe includes an elongate cylinder portion which is arranged to rotate about a longitudinal axis of the elongate cylinder portion, and having thereon

one or more vanes extending away from the cylinder portion, wherein the one or more vanes are coated with a solid phase as a means for extracting materials, and wherein the elongate cylinder portion is substantially hollow along its length to allow gas to flow therethrough.” Nothing in *JP-101243* teaches or suggests the missing recitations of independent claim 1 as amended.

For instance, the vanes taught in *JP-101243* are merely designed to feed water into the suction nozzle. In addition, Applicant respectfully submits that the tubular part 26 of *JP-101243* does not correspond to an elongate cylinder portion. For instance, Applicant respectfully sets forth that the dictionary definition of “elongated” is “made longer; extended.” (The American Heritage Dictionary of the English Language, 4<sup>th</sup> Edition, 2000, pg. 581) Applicant further respectfully submits that it is not possible for the tubular part 26 of *JP-101243*, which house the impellers, to be extended. Applicants submit that the rotary impellers of *JP-101243* extend away from a tubular part 26, which is positioned coaxially with the duct 40.

Moreover, Applicant respectfully submits that major modifications would be required to the teachings of *JP-101243* accommodate the limitations of claim 1 as amended. In addition, there is no motivation in *JP-101243* to make such major modifications because *JP-101243* is not related to gas extraction or solid phase extraction.

In view of the recitations in independent claim 1 that are neither taught nor suggested by *JP-101243*, the Applicant respectfully submits that independent claim 1 is allowable over *JP-101243*. Applicant therefore requests that the Examiner withdraw the §103 rejections of dependent claims 3-8, 10, 11, 13, and 15-20, since it is submitted that independent claim 1 is allowable. Dependent claims 3-8, 10, 11, 13, and 15-20 must be allowable, since they carry all the limitations of the allowable independent claim 1 to which they refer.

## **XII. Conclusion**

Applicant respectfully requests reconsideration, allowance of the pending claims and a timely Notice of Allowance be issued in this case. If the Examiner feels that a telephone conference would expedite the resolution of this case, the Examiner is respectfully requested to contact the undersigned.

In the course of the foregoing discussions, Applicant may have at times referred to claim limitations in shorthand fashion or may have focused on a particular claim element. This

Appl. No. 10/577,501  
Response to Office Action  
Dated April 24, 2009

discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the prior art that have yet to be raised but which may be raised in the future.

Respectfully submitted,

/ttumey/  
Tod T. Tumey  
Tumey L.L.P.  
Reg. No. 47,146  
P. O. Box 22188  
Houston, Texas 77227-2188  
(713) 622-7005 (Phone)  
(713) 622-0220 (Fax)  
ATTORNEY FOR APPLICANT